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LOBBYING ORDINANCE REVIEW

– DRAFT REVISIONS –

Article 7: Elections, Campaign Finance and Lobbying

Division 40: Municipal Lobbying

§27.4001 Purpose and Intent

replacement
language

It is the purpose and intent of the City Council of the City of San Diego in enacting this Division to: ensure that the citizens of the City of San Diego have access to information about persons who attempt to influence decisions of City government through the use of paid lobbyists; establish clear and unambiguous registration and disclosure requirements for lobbyists in order to provide the public with relevant information regarding the financing of lobbyists and the full range of lobbying activities; prohibit registered lobbyists from exerting improper influence over City Officials or from placing City Officials under personal obligation to lobbyists or their clients; promote transparency concerning attempts to influence municipal decisions; avoid corruption and the appearance of corruption in the City’s decision-making processes; regulate lobbying activities in a manner that does not discourage or prohibit the exercise of constitutional rights; reinforce public trust in the integrity of local government; and ensure that this Division is vigorously enforced.

§27.4002 Definitions

All defined terms in this Division appear in italics. Unless the context otherwise indicates, the defined terms have the meanings set forth below.

Activity Expense means any *payment* made to, or benefiting, any *City Official* made by a *lobbyist, lobbying firm, or organization lobbyist*. An *activity expense* benefits a *City Official* if it is made to, or on behalf of, the *City Official*. An *activity expense* includes gifts provided to the *City Official’s* spouse, *registered domestic partner*, or dependent child if the *City Official* receives benefits from the gift or exercises control or discretion over the use or disposal of the gift, unless it is clear that the donor had no intent to make a gift to the official. *Activity expenses* include *gifts*, meals, consulting fees, salaries, and any other form of *compensation*, but do not include campaign contributions.

Agent means a *person* who acts on behalf of any other *person*. *Agent* includes a *person* who acts on behalf of a *lobbyist*.

new definition:
relates to
fundraising
disclosure

Candidate means any individual who is seeking to hold elective *City* office and any elected *City* officeholder who is seeking to hold any elective city, county, state, or federal office.

City means the City of San Diego or any of its organizational subdivisions, agencies, offices, or boards.

City Board includes the boards of directors of all *City* agencies, and any board, commission, committee, or task force of the *City* established by action of the *City* Council under authority of the *City* Charter, Municipal Code, or Council resolution, whose members are required to file a statement of economic interests pursuant to the California Political Reform Act of 1974, as amended.

City Official includes:

- (a) any elected or appointed *City* officeholder, including any *City* officeholder elected but not yet sworn in; and
- (b) any *City Board* member; and
- (c) any employee of the *City*, except for classified employees as that term is defined in San Diego Charter section 117, who is required to file a statement of economic interests pursuant to the California Political Reform Act of 1974, as amended; and
- (d) *City* Council members acting in their capacity as Housing Authority and Redevelopment Agency officers; and
- (e) any consultants of the *City* who are required to file a statement of economic interests pursuant to the California Political Reform Act of 1974, as amended.

Client means any *person* for whose benefit *lobbying* activities are performed by a *lobbying firm*.

Compensation means any economic consideration for services rendered or to be rendered and includes consideration that is contingent upon the accomplishment of a particular goal, regardless of whether or not that goal is accomplished. *Compensation* does not include reimbursement for *travel expenses*.

Direct communication means:

- (a) talking to (either by telephone or in person); or
- (b) corresponding with (either in writing or by electronic transmission or facsimile machine).

Enforcement Authority means the City of San Diego Ethics Commission. Nothing in this article limits the authority of the City Attorney, any law enforcement agency, or any prosecuting attorney to enforce the provisions of this article under any circumstances where the City Attorney, law enforcement agency, or prosecuting attorney otherwise has lawful authority to do so.

new definition

Expenditure lobbyist means any *person* who makes *payments* for public relations, media relations, advertising, public outreach, research, investigation, reports, analyses, studies, or similar activities designed to *influence a municipal decision*, to the extent that such *payments* total \$500 or more within any three consecutive calendar months. *Payments* for

activities reported by a *lobbying firm* or *organization lobbyist* on a quarterly disclosure report shall not be considered for purposes of calculating the \$500 threshold.

Fundraising activity means either of the following:

new definition
related to
fundraising
disclosure
requirement

- (a) hosting or sponsoring a fundraising event, or hiring others to conduct a fundraising event, that results in the collection of contributions totaling \$1,000 or more for the benefit of a *candidate's* controlled committee; or
- (b) *obtaining contributions* of at least \$1,000 for a *candidate's* controlled committee.

Gift means any *payment* that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. Any *person*, other than a defendant in a criminal action, who claims that a *payment* is not a *gift* by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value. *Gifts* are subject to the exceptions set forth in Municipal Code section 27.3525

Immediate family means an individual's spouse or registered domestic partner, and any dependent children.

Influencing a municipal decision means affecting or attempting to affect any action by a *City Official* on one or more *municipal decisions* by any method, including promoting, supporting, opposing, or seeking to modify or delay such action. *Influencing a municipal decision* also includes providing information, statistics, analysis or studies to a *City Official*.

Lobbying means *direct communication* with a *City Official* for the purpose of *influencing a municipal decision* on behalf of any other *person*.

new definition: all
entities covered by
division

Lobbying entity means any *lobbying firm*, *organization lobbyist*, or *expenditure lobbyist*.

new definition: firm
that employs
contract lobbyists

Lobbying firm means any entity that receives or becomes entitled to receive any amount of monetary or in-kind *compensation* to engage in *lobbying* activities with any *City Official* on behalf of any other *person*.

revised definition:
refers to the
individual lobbyists

Lobbyist means any individual who engages in *lobbying* activities with any *City Official* on behalf of a *client* or an *organization lobbyist*.

Municipal decision includes:

- (a) the drafting, introduction, consideration, reconsideration, adoption, defeat, or repeal of any ordinance or resolution; and
- (b) the amendment of any ordinance or resolution; and
- (c) a report by a *City Official* to the *City Council* or a *City Council Committee*; and
- (d) contracts; and

(e) quasi-judicial decisions, including:

- (1) any decision on a land development permit, map or other matter decided pursuant to Process 2 through 5 as described in Chapter 11 of this Municipal Code; and
- (2) any grant of, denial of, modification to, or revocation of a permit or license under Chapter 1 through 10 of this Municipal Code; and
- (3) any declaration of debarment as described in Chapter 2, Article 2, Division 8, of this Municipal Code; and

(f) any other decision of the *City Council* or a *City Board*.

new definition
related to
fundraising
disclosure
requirement

Obtaining contributions means soliciting campaign contributions from one or more contributors and either (a) personally delivering the contributions to a *candidate* or to a *candidate's* controlled committee, or (b) identifying oneself to a *candidate* or a *candidate's* controlled committee as having any degree of responsibility for the contributions received as a result of that solicitation.

definition of
"organization"
still to be
determined

Organization means **[TO BE DETERMINED]**. Employees of an *organization* include, but are not limited to, its owners, officers, and any full- or part-time employees. An employee of any parent or subsidiary of the *organization* is considered an employee of the *organization*. An employee of any related *organization* is considered an employee of the *organization*.

- (a) A parent-subsidiary relationship exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation.
- (b) Business entities, including corporations, partnerships, joint ventures and any other organizations and enterprises, which do not have a parent-subsidiary relationship are "related" if any one of the following three tests is met:
 - (1) One business entity has a controlling ownership (50% or greater interest as a shareholder or as a general partner) interest in the other business entity.
 - (2) There is shared management and control between the entities. In determining whether there is shared management and control, consideration should be given to the following factors:
 - (A) The same *person* or substantially the same *person* owns and manages the two entities;
 - (B) There are common or commingled funds or assets;
 - (C) The business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis;

(D) There is otherwise a regular and close working relationship between the entities; or

(3) A controlling owner in one entity also is a controlling owner in the other entity.

scope of
definition still to
be determined

Organization lobbyist means **[TO BE DETERMINED]**

Payment means a payment, distribution, transfer, loan, advance, deposit, *gift* or other rendering of money, property, services, or anything else of value, whether tangible or intangible.

Person means any individual, business entity, trust, corporation, association, committee, or any other organization or group of *persons* acting in concert.

Public hearing means any meeting as defined by the Ralph M. Brown Act where a public record is kept of who spoke and who was represented by a *lobbyist* testifying at that hearing.

Public official means an elected or appointed officer or employee or officially designated representative, whether compensated or not, of the United States or any of its agencies; the State of California; the *City*; any political subdivision of the State, including counties and districts; or any public corporation, agency or commission.

Travel expenses means reasonable expenses for transportation plus a reasonable sum for food and lodging.

§27.4004 Exceptions

The following *persons* and activities are exempt from the requirements of this division:

- (a) a *public official* acting in his or her official capacity and any government employee acting within the scope of his or her employment;
- (b) any newspaper or other regularly published periodical, radio or television station (including any individual who owns, publishes, or is employed by any such newspaper, periodical, radio, or television station) that in the ordinary course of business publishes news items, editorials, or other comments or paid advertisements which directly or indirectly urge action on a *municipal decision*, if such newspaper, periodical, radio or television station, or individual engages in no other activities to *influence a municipal decision*;
- (c) any *person* whose sole activity includes one or more of the following, unless the activity involves *direct communication* with a member of the *City Council* or a member of the *City Council*'s immediate staff:

existing exemption,
with additional
language excluding
City Council and staff

- (1) to submit a bid on a competitively bid contract;
- (2) to submit a written response to a request for proposals or qualifications;

- (3) to participate in an oral interview for a request for proposals or qualifications; or,
 - (4) to negotiate the terms of a contract or agreement with the *City*, once the *City* has authorized either by action of the *City* Council, *City* Manager, or voters, entering an agreement with that *person* whether that *person* has been selected pursuant to a bid, request for proposals or qualifications, or by other means of selection recognized by law.
 - (5) to communicate in connection with the administration of an existing contract between the *person* and the *City*.
- (d) any request for advice regarding, or for an interpretation of laws, regulations, *City* approvals, or policies;
 - (e) any communication by an attorney with regard to his or her representation of a party or potential party to pending or actual litigation brought by or against the *City*, or *City* agent, officer, or employee;
 - (f) any ministerial action. An action is ministerial if it does not require the *City Official* to exercise discretion concerning any outcome or course of action. A ministerial action includes, but is not limited to, decisions on private land development made pursuant to Process 1 as described in Chapter 11 of the Municipal Code;
 - (g) any action relating to the establishment, amendment, administration, implementation or interpretation of a collective bargaining agreement or memorandum of understanding between the *City* and a recognized employee organization, or a proceeding before the Civil Service Commission;
 - (h) any management decisions as to the working conditions of represented employees that clearly relate to the terms of collective bargaining agreements or memoranda of understanding pursuant to (d) above;
 - (i) solely responding to questions from any *City Official*, or providing oral or written information in response to a subpoena or as otherwise compelled by law;
 - (j) solely appearing as a speaker at, or providing written statements which become part of the record of, a *public hearing*;
 - (k) a direct response to an enforcement proceeding with the *City*.
 - (l) communications with a *City Official* by an engineer, architect, biologist, geologist, or any other professional in the natural sciences, to the extent that such communications are limited to sharing specialized knowledge associated with his or her respective field of professional expertise.
 - (m) the publishing of any information on an Internet website that is accessible to the general public.

(l) and (m) are
new exemptions

§27.4005 Threshold Determination For Organization Lobbyist

thresholds yet to be determined

§27.4006 Activity Expense on Behalf of Client

An *activity expense* shall be considered to be made on behalf of a *client* if the *client* requires, authorizes, or reimburses the expense.

§27.4007 Registration Required

- (a) Every *lobbying firm* and *organization lobbyist* is required to register with the *City Clerk* no later than ten calendar days after qualifying as a *lobbying firm* or *organization lobbyist*.
- (b) *Lobbying firms* and *organization lobbyists* shall file their registration forms with the *City Clerk*, using forms provided by the *City Clerk*.
- (c) Nothing in this division precludes an entity from registering as a *lobbying firm* or *organization lobbyist* prior to qualifying as such.

§27.4009 Contents of Registration Form

- (a) Every *lobbying firm* shall file with the *City Clerk* a registration form that contains the following information:
 - (1) the *lobbying firm's* name, address, and telephone number.
 - (2) the name of each individual employed by the *lobbying firm*:
 - (A) who has engaged in *lobbying* the *City* within the previous 30 calendar days, or
 - (B) who the *lobbying firm* reasonably anticipates will engage in *lobbying* the *City* in the future.
 - (3) a listing of all individuals identified in subsection (a)(2) who have engaged in *fundraising activities* for a current elected *City Official* within the past four years, along with the name of each applicable *City Official*.
 - (4) for each *client* for whom the *lobbying firm* provides *lobbying activities*:
 - (A) the *client's* name, business or mailing address, and telephone number;
 - (B) a specific description of each *client* in sufficient detail to inform the public of the nature and purpose of the *client's* business; and,
 - (C) the specific *municipal decision(s)* for which the *lobbying firm* was retained to represent the *client*, or a description of the type(s) of *municipal decision(s)* for which the *lobbying firm* was retained to represent the *client*, and the outcome(s) sought by the *client*;

registration disclosures for lobbying firm

- (5) statements by a duly authorized owner or officer of the *lobbying firm* that he or she:
 - (A) reviewed and understands the requirements of Division 40 governing municipal lobbying; and,
 - (B) reviewed the contents of the registration form and verified, under penalty of perjury, that such contents are accurate and complete.
- (6) the printed name and original signature of the individual making the statements required by subsection (a)(5).
- (7) any other information required by the *Enforcement Authority* or the *City Clerk* consistent with the purposes and provisions of this division.

(b) Every *organization lobbyist* shall file with the *City Clerk* a registration form that contains the following information:

registration disclosures for organization lobbyist

- (1) the *organization lobbyist's* name, address, and telephone number.
- (2) a specific description of the *organization lobbyist* in sufficient detail to inform the public of the nature and purpose of its business.
- (3) the name of each owner, officer, and employee of the *organization lobbyist* who is authorized to *lobby City Officials* on behalf of the *organization lobbyist*.
- (4) the total number of *contacts* **[TO BE DETERMINED]** with *City Officials* made on behalf of the *organization lobbyist* by the *organization lobbyist's* owners, officers, or employees during the preceding 30 calendar days.
- (5) a description of each *municipal decision* the *organization lobbyist* has sought to influence during the preceding 30 calendar days; and the outcome sought by the *organization lobbyist*.
- (6) a listing of all individuals identified in subsection (b)(3) who have engaged in *fundraising activities* for a current elected *City Official* within the past four years, along with the name of each applicable *City Official*.
- (7) statements by a duly authorized owner or officer of the *organization lobbyist* that he or she:
 - (A) reviewed and understands the requirements of Division 40 governing municipal lobbying; and,
 - (B) reviewed the contents of the registration form and verified, under penalty of perjury, that such contents are accurate and complete.
- (8) the printed name and original signature of the individual making the statements required by subsection (b)(7).

(b)(4) to be determined: either number of contacts, hours spent, percentage of time spent, or compensation received

- (9) any other information required by the *Enforcement Authority* or the City Clerk consistent with the purposes and provisions of this division.

§27.4010 Registration Fees

- (a) At the time a *lobbying firm* registers pursuant to section 27.4007, the *lobbying firm* shall pay an annual registration fee based on the number of *lobbyists* identified in its registration form, plus an annual *client* registration fee for each *client* identified on the registration form.
- (1) A *lobbying firm* that initially qualifies to register during the last quarter of a calendar year (October through December) pursuant to section 27.4007 shall pay prorated registration fees.
- (2) When a *lobbying firm* adds a *lobbyist* subsequent to the *lobbying firm's* initial registration, the *lobbying firm* shall pay an additional *lobbyist* registration fee when filing its amended registration form as required by section 27.4012.
- (3) When a *lobbying firm* acquires a *client* subsequent to the *lobbying firm's* initial registration, the *lobbying firm* shall pay an additional *client* registration fee when filing its amended registration form as required by section 27.4012.
- (4) For the purpose of determining *client* registration fees, a trade association or business organization qualified under Internal Revenue Code 501(c)(6) shall be considered a single *client*.
- (5) Registration fees may be paid or reimbursed by a *client*.
- (b) At the time a *organization lobbyist* registers pursuant to section 27.4007, the *organization lobbyist* shall pay an annual *organization lobbyist* registration fee.

lobbying firm:
registration
fees based on
number of
lobbyists and
clients

organization
lobbyist: single
registration fee

- (1) A *organization lobbyist* that initially qualifies to register during the last quarter of a calendar year (October through December) pursuant to section 27.4007 shall pay a prorated registration fee.
- (2) A *organization lobbyist* shall pay a single registration fee regardless of the number of its owners, officers, and employees who engage in *lobbying* activities.

fees to be
set by City
Clerk & City
Council

- (c) All registration fees shall be set by the *City Council* based upon the recommendation of the *City Clerk*. The *City Clerk* shall from time to time recommend fee amounts to the *City Council* that reflect, but do not exceed, the *City's* costs of administering of the filing requirements set forth in this division. A copy of the fee schedule shall be filed in the rate book of fees on file in the office of the *City Clerk*.

§27.4012 Amendments to Registration Form

10 days to
amend form

Within ten calendar days of any change in the information required on their registration forms, *lobbying firms* and *organization lobbyists* shall file amendments to their registration forms, disclosing the change in information.

§27.4013 Duration of Status

An entity that registers as a *lobbying firm* or *organization lobbyist* retains that status through January 5 of the following calendar year unless and until it terminates that status in accordance with section 27.4022. An entity that continues to qualify as a *lobbying firm* or *organization lobbyist* on January 5 shall renew that registration on or before January 15 of each year.

§27.4014 Notification of Activity Expense Paid to or Benefiting a City Official

- (a) Whenever a *lobbying firm* or a *lobbyist* employed by that *lobbying firm* makes an *activity expense*, the *lobbying firm* shall, within twenty business days, disclose in writing the *activity expense* to the *City Official* who benefited from the *activity expense*.
- (b) Whenever a *organization lobbyist* or an owner, officer, or employee of that *organization lobbyist* makes an *activity expense*, the *organization lobbyist* shall, within twenty business days, disclose in writing the *activity expense* to the *City Official* who benefited from the *activity expense*.
- (c) The disclosure required by subsections (a) and (b) shall include:
 - (1) the date and amount of the *activity expense*;
 - (2) a description of the *activity expense*;
 - (3) the name of any individual owner, officer, or *lobbyist* who participated in making the *activity expense*; and,
 - (4) the name of any *client* on whose behalf the *activity expense* was made.

§27.4015 Quarterly Disclosure Report Required

- (a) *Lobbying firms* and *organization lobbyists* shall file quarterly disclosure reports for every calendar quarter during which they retain their status as a *lobbying firm* or *organization lobbyist*.
- (b) *Expenditure lobbyists* shall file quarterly disclosure reports for every calendar quarter in which they qualify as *expenditure lobbyists*. An entity has no filing obligations as an *expenditure lobbyist* for any calendar quarter in which it does not meet the definition of an *expenditure lobbyist*.
- (c) Each *lobbying entity* shall file its quarterly disclosure report with the *City Clerk*, using forms provided by the *City Clerk*.

§27.4016 Filing Deadline for Quarterly Disclosure Report

Lobbying entities shall file quarterly disclosure reports no later than the last day of the months of April, July, October, and January. *Lobbying entities* shall disclose the

information required by section 27.4017 for the calendar quarter immediately prior to the month in which the report is required to be filed.

§27.4017 Contents of Quarterly Disclosure Report

(a) Each *lobbying firm's* quarterly disclosure report shall contain the following information:

- (1) the *lobbying firm's* name, address, and telephone number.
- (2) the name, business or mailing address, and telephone number of each *client* represented by the *lobbying firm* during the reporting period, along with the following information for that *client*:
 - (A) the specific *municipal decision(s)* for which the *lobbying firm* represented the *client* during the reporting period, and the outcome(s) sought by the *client*;
 - (B) the name and department of each *City Official* who was subject to *lobbying* activities by the *lobbying firm* with regard to that specific *municipal decision*;
 - (C) the name of each *lobbyist* employed by the *lobbying firm* who engaged in *lobbying* activities with regard to that specific *municipal decision*; and,
 - (D) the total *compensation* received, or entitled to be received, during the reporting period in connection with *lobbying* for that specific *municipal decision*. Such *compensation* shall be disclosed to the nearest thousand dollars.
- (3) an itemization of *activity expenses* that includes the following:
 - (A) the date, amount, and description of any *activity expense* of \$10 or more on any single occasion made by the *lobbying firm* or any of its *lobbyists* during the reporting period for the benefit of a single *City Official*;
 - (B) the date, amount, and description of any *activity expenses* aggregating \$50 or more during the quarter made by the *lobbying firm* and any of its *lobbyists* during the reporting period for the benefit of a single *City Official*;
 - (C) the name, title, and department of the *City Official* benefiting from the itemized *activity expense*;
 - (D) the name of each *lobbyist* who participated in making the *activity expense*;
 - (E) the name and address of the payee of each itemized *activity expense*; and,
 - (F) the name of the *client*, if any, on whose behalf each itemized *activity expense* was made.

quarterly
disclosure
requirements for
lobbying firms

disclosure of
fundraising
activities

- (4) an itemization of any campaign contributions of \$100 or more made by owners, officers, and *lobbyists* of the *lobbying firm* during the reporting period in support of or in opposition to a *candidate* for elective *City* office, including the date and amount of the contribution and the name of the *candidate* supported or opposed.
 - (5) an itemization of any campaign contributions of \$100 or more made by owners, officers, and *lobbyists* of the *lobbying firm* during the reporting period to a *candidate's* controlled committee that is organized to support or oppose a ballot measure, including the date and amount of the contribution and the name of the ballot measure committee.
 - (6) for each elected *City Official*, each *candidate* for elective *City* office, and each *candidate*-controlled ballot measure committee for which the *lobbying firm* or any of its owners, officers, or *lobbyists* engaged in any *fundraising activity* during the reporting period: (1) the name of the elected *City Official* or *candidate*; (2) a description of the ballot measure, if applicable; (3) the date(s) of the *fundraising activity*; (4) a brief description of the *fundraising activity*; and (5) the approximate amount of contributions the *lobbying firm* knows or has reason to know were raised as a result of the *fundraising activity*.
 - (7) a statement by a duly authorized owner or officer of the *lobbying firm* that he or she has reviewed the contents of the quarterly disclosure report and verified, under penalty of perjury, that such contents are accurate and complete.
 - (8) the printed name and original signature of the individual making the statement required by subsection (a)(7).
 - (9) any other information required by the *Enforcement Authority* or the *City Clerk* consistent with the purposes and provisions of this division.
- (b) Each *organization lobbyist's* quarterly disclosure report shall contain the following information:

quarterly disclosure
requirements for
organization lobbyist

- (1) the *organization lobbyist's* full name, address, and telephone number.
- (2) for each *municipal decision(s)* for which the *organization lobbyist* engaged in *lobbying* activities during the reporting period:
 - (A) a description of the specific *municipal decision*, and the outcome sought by the *organization lobbyist*;
 - (B) the name and department of each *City Official* who was subject to *lobbying* activities by the *organization lobbyist* during the reporting period with regard to the specific *municipal decision*; and,
 - (C) the name of each owner, officer, or employee of the *organization lobbyist* who engaged in *lobbying* activities during the reporting period with regard to the specific *municipal decision*.

To be determined:
either number of
contacts, hours
spent, percentage
of time spent, or
compensation
received

- (D) the total number of *contacts* **[TO BE DETERMINED]** with *City Officials* made on behalf of the *organization lobbyist* by the *organization lobbyist's* owners, officers, or employees during the reporting period.
- (3) an itemization of *activity expenses* that includes the following:
 - (A) the date, amount, and description of any *activity expense* of \$10 or more on any single occasion by the *organization lobbyist* or any *lobbyist* employed by the *organization lobbyist* made during the reporting period for the benefit of a single *City Official*;
 - (B) the date, amount, and description of any *activity expenses* aggregating \$50 or more during the quarter by the *organization lobbyist* and any *lobbyist* employed by the *organization lobbyist* made during the reporting period for the benefit of a single *City Official*;
 - (C) the name, title, and department of the *City Official* benefiting from the itemized *activity expense*;
 - (D) the name of each owner, officer, or employer of the *organization lobbyist* who participated in making the *activity expense*;
 - (E) the name and address of the payee of each itemized *activity expense*; and,
 - (F) the name of the *client*, if any, on whose behalf each itemized *activity expense* was made.
- (4) an itemization of any campaign contributions of \$100 or more made by owners, officers, and *lobbyists* of the *organization lobbyist* during the reporting period in support of or in opposition to a *candidate* for elective *City* office, including the date and amount of the contribution and the name of the *candidate* supported or opposed.
- (5) an itemization of any campaign contributions of \$100 or more made by owners, officers, and *lobbyists* of the *organization lobbyist* during the reporting period to a *candidate's* controlled committee that is organized to support or oppose a ballot measure, including the date and amount of the contribution and the name of the ballot measure committee.
- (6) for each elected *City Official*, each *candidate* for elective *City* office, and each *candidate*-controlled ballot measure committee for which the *organization lobbyist* or any of its owners, officers, or *lobbyists* engaged in any *fundraising activity* during the reporting period: (1) the name of the elected *City Official* or *candidate*; (2) a description of the ballot measure, if applicable; (3) the date(s) of the *fundraising activity*; (4) a brief description of the *fundraising activity*; and (5) the approximate amount of contributions the *organization lobbyist* knows or has reason to know were raised as a result of the *fundraising activity*.

disclosure of
fundraising
activities

- (7) a statement by a duly authorized owner or officer of the *organization lobbyist* that he or she has reviewed the contents of the quarterly disclosure report and verified, under penalty of perjury, that such contents are accurate and complete.
- (8) the printed name and original signature of the individual making the statement required by subsection (b)(7).
- (9) any other information required by the *Enforcement Authority* or the City Clerk consistent with the purposes and provisions of this division.

(c) An *expenditure lobbyist's* quarterly disclosure report shall contain the following information:

quarterly
disclosure
requirements for
expenditure
lobbyists

- (1) The name, address, and telephone number of the *expenditure lobbyist*.
- (2) The name, title, address, and telephone number of the individual responsible for preparing the report.
- (3) A description of each *municipal decision* that the *expenditure lobbyist* attempted to influence during the reporting period, and for each such *municipal decision*:
 - (A) The total *payments* the *expenditure lobbyist* made during the reporting period for the purpose of attempting to influence that *municipal decision*;
 - (B) The name, address, telephone number, and amount of *payment* for each *person* who made a *payment*, or the promise of a *payment*, of \$100 or more during the reporting period to the *expenditure lobbyist* for the express purpose of influencing that *municipal decision*; and,
 - (C) the outcome sought by the *expenditure lobbyist*.
- (4) a statement by a duly authorized owner or officer of the *expenditure lobbyist* that he or she has reviewed the contents of the quarterly disclosure report and verified, under penalty of perjury, that such contents are accurate and complete.
- (5) the printed name and original signature of the individual making the statement required by subsection (c)(4).
- (6) any other information required by the *Enforcement Authority* or the City Clerk consistent with the purposes and provisions of this division.

§27.4018 Amendments to Quarterly Disclosure Reports

10 days to
amend

Any *lobbying entity* that discovers incomplete or inaccurate information in a quarterly disclosure report that it filed with the *City Clerk* shall, within ten calendar days of the discovery, file an amended quarterly disclosure report with the *City Clerk* disclosing all information necessary to make the report complete and accurate.

§27.4019 Retention of Records

In addition to any other requirement of this division, every *lobbying entity* shall retain for a period of five years all books, papers, and documents necessary to substantiate the quarterly disclosure reports required to be made under this division.

§27.4022 Termination of Status as Lobbying Firm or Organization Lobbyist

A *lobbying firm* or *organization lobbyist* that ceases being a *lobbying entity* shall notify the City Clerk of this status upon the quarterly disclosure report form provided by the City Clerk. Upon terminating, the *lobbying firm* or *organization lobbyist* shall report any information required by section 27.4017 that has not been reported since its last quarterly disclosure report.

§27.4023 Obligations of Individual Lobbyists

Every *lobbyist* shall:

- (a) disclose his or her status as a *lobbyist* to a *City Official* before providing anything of value to that *City Official* which would require disclosure as an *activity expense* to the *City Official* pursuant to section 27.4014;
- (b) abstain from doing any act with the purpose or intent of placing a *City Official* under personal obligation to the *lobbyist*, or to the *lobbyist's* employer or *client*;
- (c) correct, in writing, any misinformation given to a *City Official*, specifying the nature of the misinformation;
- (d) not deceive or attempt to deceive a *City Official* as to any material fact pertinent to any pending or proposed *municipal decision*;
- (e) not cause any communication to be sent to a *City Official* in the name of any fictitious *person*, or in the name of any real *person* without the consent of such real *person*; and
- (f) not attempt to evade the obligations in this section through indirect efforts or through the use of *agents*, associates, or employees.

§27.4024 Employment of City Official or Employees by Lobbying Entity

If any *lobbying entity* employs or retains a current *City Official* or *City* employee, or any member of that official's or employee's *immediate family*, that *lobbying entity* shall file a written statement with the City Clerk within ten calendar days after such employment commences. This statement shall set forth the name of the individual employed, the date the individual was first employed by the *lobbying entity*, and the individual's position, title, and department in the *City*.

§27.4030 Gifts from Lobbying Entities and Lobbyists

- (a) It is unlawful for a *lobbying firm* or any of its *lobbyists* to make a *gift*, act as an *agent* or intermediary in the making of a *gift*, or arrange for the making of a *gift* if:
 - (1) the *gift* is given to a *City Official*, and

(2) the aggregate value of all *gifts* from the *lobbying firm* and its *lobbyists* to that *City Official* exceeds \$10 within a calendar month.

(b) It is unlawful for a *organization lobbyist* or a *lobbyist* employed by that *organization lobbyist* to make a *gift*, act as an *agent* or intermediary in the making of a *gift*, or arrange for the making of a *gift* if:

gifts over \$10
prohibited

(1) the *gift* is given to a *City Official*, and

(2) the aggregate value of all *gifts* from the *organization lobbyist* and any *lobbyist* employed by that *organization lobbyist* to that *City Official* exceeds \$10 within a calendar month.

(c) For purposes of this section, an entity or individual “arranges for the making of a *gift*” if the entity or individual, either directly or through an *agent*, does any of the following:

(1) Delivers a *gift* to the recipient.

(2) Acts as the representative of the donor, if the donor is not present at the occasion of a *gift*. This does not include accompanying the recipient to an event where the donor will be present.

(3) Invites or sends an invitation to an intended recipient regarding the occasion of a *gift*.

(4) Solicits responses from an intended recipient concerning his or her attendance or nonattendance at the occasion of a *gift*.

(5) Is designated as the representative of the donor to receive responses from an intended recipient concerning his or her attendance or nonattendance at the occasion of a *gift*.

(6) Acts as an intermediary in connection with the reimbursement of a recipient's expenses.

§27.4040 Powers and Duties of the City Clerk

(a) Upon receipt of a written request, the *City Clerk* may issue a notice of filing obligations to any *person* whom a *City Official* or any other *person* has reason to believe should file a registration form or quarterly disclosure report under this division. Before sending the notice, the Clerk:

(1) shall require the *City Official* or *person* making the request to provide a written statement of the factual basis for the belief; and,

(2) shall determine whether sufficient facts exist to warrant sending the notice.

(b) Any *person* who in good faith and on reasonable grounds believes that he, she, or it is not required to comply with the provisions of sections 27.4007 or 27.4015 by reason of being exempt under any provision of this division shall not be deemed to have violated the provisions of these sections if, within ten calendar days after the *City Clerk* has sent specific written notice, the *person* either complies with the

requirements of this division, or furnishes satisfactory evidence to the Clerk that he, she, or it is exempt from filing obligations.

- (c) As soon as practicable after the close of each quarter, the *City Clerk* shall complete a summary of the information contained in registration forms and quarterly disclosure reports required to be filed under the provisions of this division. This summary shall be forwarded to the Mayor, City Council, and the *Enforcement Authority*.
- (d) The *City Clerk* shall preserve all registration forms and quarterly disclosure reports required to be filed under this division for a period of five years from the date of filing. These registration forms and quarterly disclosure reports shall constitute part of the public records of the Clerk's office, and shall be open to public inspection. Copies shall be made available by the Clerk upon request and payment of any lawful copy charges.
- (e) The *City Clerk* shall report apparent violations of this division to the *Enforcement Authority*.
- (f) The *City Clerk* shall have the power to adopt all reasonable and necessary procedures to implement this division.

§27.4041 Inspection of Forms and Reports

- (a) The *City Clerk* shall inspect, or cause to be inspected, each registration form and quarterly disclosure report filed under this division within twenty business days after the filing deadline. The Clerk shall notify an entity to file a registration form or quarterly disclosure report under this division if it appears that the entity has failed to file as required by law or that the registration form or quarterly disclosure report filed by the individual does not conform to law.
- (b) Any entity notified to file an original or amended registration form or quarterly disclosure report shall file the form or report by the deadline imposed in the notification from the Clerk.

§27.4045 Online Disclosure of Forms and Reports

new section
anticipating
online filing of
lobbyist
statements

- (a) It is the intent of the *City* to implement an electronic filing system that facilitates the disclosure of *lobbying* activities engaged in by *lobbying entities*. When a practical and financially feasible electronic filing system has been implemented by the *City Clerk*, the provisions of this section shall be in effect.
- (b) Every *lobbying entity* required to file a registration form or quarterly disclosure report pursuant to this division shall use the *City Clerk's* electronic filing system to file online such forms or reports.
- (c) Every *lobbying entity* shall continue to file a paper copy of each form or report with the *City Clerk*. The paper copy shall continue to be the original form or report for audit and other legal purposes.

- (d) The information contained on a form or report filed online shall be the same as that contained on the paper copy of the same form or report that is filed with the *City Clerk*.

§27.4050 Enforcement Authority: Duties, Complaints, Legal Action, Investigatory Powers

- (a) Any *person* who believes that violation of any portion of this division has occurred may file a complaint with the *Enforcement Authority*.
- (b) The *Enforcement Authority* shall have such investigative powers as are necessary for the performance of the duties prescribed in this division. The *Enforcement Authority* may demand and shall be furnished records of *activity expenses* at any time.
- (c) The *Enforcement Authority* shall determine whether forms and reports have been filed as required and, if so, whether they conform to the requirements of this division.
- (d) The *Enforcement Authority* may elect to enforce the provision of this division administratively pursuant to Chapter 2, Article 6, Division 4, or may otherwise recommend or refer enforcement actions to the City Attorney or other law enforcement agency with jurisdiction.

§27.4055 Violations, Penalties and Defenses

clarifies
applicability of
Ethics
Commission
remedies

- (a) Violations of this division may be prosecuted as misdemeanors subject to the fines and custody provided in San Diego Municipal Code section 12.0201. The *City* may also seek injunctive relief and civil penalties in the Superior Court pursuant to Municipal Code section 12.0202. In addition, if the matter is pursued by the *Enforcement Authority* as an administrative matter, any *person* found in violation is subject to the administrative penalties provided for in Chapter 2, Article 6, Division 4.
- (b) In addition to any other penalty or remedy available, if any individual fails to file any registration form or quarterly disclosure report required by this division after any deadline imposed by this division, that individual shall be liable to the *City* of San Diego in the amount of \$10 per calendar day after the deadline until the report is filed, up to a maximum amount of \$100.
- (c) Provisions of this division need not be enforced by the *City Clerk* if it is determined that the late filing was not willful and that enforcement of the penalty would not further the purposes of this division.
- (d) Provisions of this division shall not be waived if a registration form or quarterly disclosure report, or an amendment to correct any deficiency in a registration form or quarterly disclosure report, is not filed by the deadline imposed in the notification from the *City Clerk* of the filing requirement.
- (e) Any limitation of time prescribed by law within which prosecution for a violation of any part of this division must be commenced shall not begin to run until the *City's* discovery of the violation.